

RESOLUTIONS AND ORDINANCE

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
GENERAL PLAN AND MIDTOWN SPECIFIC PLAN AMENDMENTS (GP2003-1) FOR THE
ELMWOOD RESIDENTIAL AND COMMERCIAL DEVELOPMENT PROJECT**

WHEREAS, KB Home South Bay Inc. proposed General Plan and Midtown Specific Plan amendments, rezoning, tentative map, planned unit development, and other related applications for a residential development of 683 new units on approximately 27.5 acres, approximately 8 acres of public park space, and approximately 23 acres of future commercial development located north of Great Mall Parkway on both sides of Abel Street, and north and west of the existing Elmwood Correctional Facility. These applications are collectively referred to as the "Project"; and

WHEREAS, the General Plan amendment would change the land use designations of approximately 20 acres north of the Elmwood Correctional Facility from General Commercial, and Parks and Open Space to Multi-Family High Density Residential (12-20 du/ac), and Parks and Open Space, and approximately 0.6 acres near the existing Elm tree grove from Multi-Family Very High Density Residential (31-40 du/ac) to Parks and Open Space, and approximately 1.0 acres west of Interstate 880 from Parks and Open Space to General Commercial, and approximately 1.0 acres at the existing Cracolice building site from Mixed Use to Parks and Open Space (Planning Application P-GP2003-1), as further shown on Exhibit A; and

WHEREAS, the Midtown Specific Plan amendment would change the corresponding land use designations for the above identified amendments as further shown on Exhibit A; and

WHEREAS, the City prepared and circulated a Draft EIR analyzing the potential environmental effects of the Project and prepared a Final EIR comprised of written responses to all comments received on the Draft EIR. On November 17, 2004, the Planning Commission adopted Resolution No. 496, recommending that the City Council certify an Environmental Impact Report for the Project, which resolution is incorporated herein by reference; and

WHEREAS, a Planning Commission staff report, dated November 17, 2004, and incorporated herein by reference, described and analyzed the Environmental Impact Report and the Project, including the proposed amendments to the General Plan and the Midtown Specific Plan; and

WHEREAS, at a noticed public hearing on November 17, 2004 at which time all interested parties had the opportunity to be heard, the Planning Commission recommended approval of the proposed General Plan and Midtown Specific Plan amendments (Resolution 497, incorporated herein by reference) and recommended approval of the related applications; and

WHEREAS, a City Council staff report dated December 14, 2004 and incorporated herein by reference, described and analyzed the EIR and the Project, including the proposed amendments to the General Plan and Midtown Specific Plan; and

WHEREAS, the City Council reviewed the staff report, the final EIR, and the Project at a duly noticed public hearing on December 14, 2004, at which time all interested parties had the opportunity to be heard; and

WHEREAS, on December 14, 2004, the City Council adopted Resolution 7493 certifying the final EIR for the Project, which resolution is incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED that the City Council approves the following General Plan and Midtown Specific Plan amendments and finds that the amendments are in the public interest, that the General Plan and Midtown Specific Plan as so amended will remain internally consistent, and that the Midtown Specific Plan as amended is consistent with the Milpitas General Plan.

A. Amend Figure 2-1 (General Plan Map) of the Milpitas General Plan to change the land use designations for the approximately 20 acre site (portions of APN 086-05-009) north of the Elmwood Correctional Facility from General Commercial and Parks and Open Space to Multi-Family High Density Residential and Parks and Open Space, as shown on attached Exhibit A, incorporated herein by reference.

B. Amend Figure 2-1 (General Plan Map) of the Milpitas General Plan to change the land use designations for the approximately 9.7 acre site (portions of APN 086-11-013) east of Abel Street and the Elmwood Correctional Facility from Multi-Family Very High Density Residential to Parks and Open Space, as shown on attached Exhibit A, incorporated herein by reference.

C. Amend Figure 2-1, (General Plan Map) of the Milpitas General Plan to change the land use designations for the approximately 1 acre site (portions of APN 086-05-003) west of the Elmwood Correctional Facility from Parks and Open Space to General Commercial, as shown on attached Exhibit A, incorporated herein by reference.

D. Amend Figure 2-1 (General Plan Map) of the Milpitas General Plan to change the land use designations for the approximately 1 acre site (APN: 086-10-025) east of Abel Street and north of the project site from Mixed Use to Parks and Open Space, as shown on attached Exhibit A, incorporated herein by reference.

E. Amend Figure 8.0 (Midtown Specific Plan Map) of the Milpitas Midtown Specific Plan to change the land use designations for the approximately 20 acre site (portions of APN 086-05-009) north of the Elmwood Correctional Facility from General Commercial and Parks and Open Space to Multi-Family High Density Residential and Parks and Open Space, as shown on attached Exhibit A, incorporated herein by reference.

F. Amend Figure 8.0 (Midtown Specific Plan Map) of the Milpitas Midtown Specific Plan to change the land use designations for the approximately 9.7 acre site (portions of APN 086-11-013) east of Abel Street and the Elmwood Correctional Facility from Multi-Family Very High Density Residential to Parks and Open Space, as shown on attached Exhibit A, incorporated herein by reference.

G. Amend Figure 8.0 (Midtown Specific Plan Map) of the Milpitas Midtown Specific Plan to change the land use designations for the approximately 1 acre site (portions of APN 086-05-003) west of the Elmwood Correctional Facility from Parks and Open Space to General Commercial, as shown on attached Exhibit A, incorporated herein by reference.

H. Amend Figure 8.0 (Midtown Specific Plan Map) of the Milpitas Midtown Specific Plan to change the land use designations for the approximately 1 acre site (APN: 086-10-025) east of Abel Street and north of the project site from Mixed Use to Parks and Open Space, as shown on attached Exhibit A, incorporated herein by reference.

PASSED, APPROVED AND ADOPTED this 18TH day of January 2005.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor





APPROVED AS TO FORM:

Steven T. Mattas, City Attorney



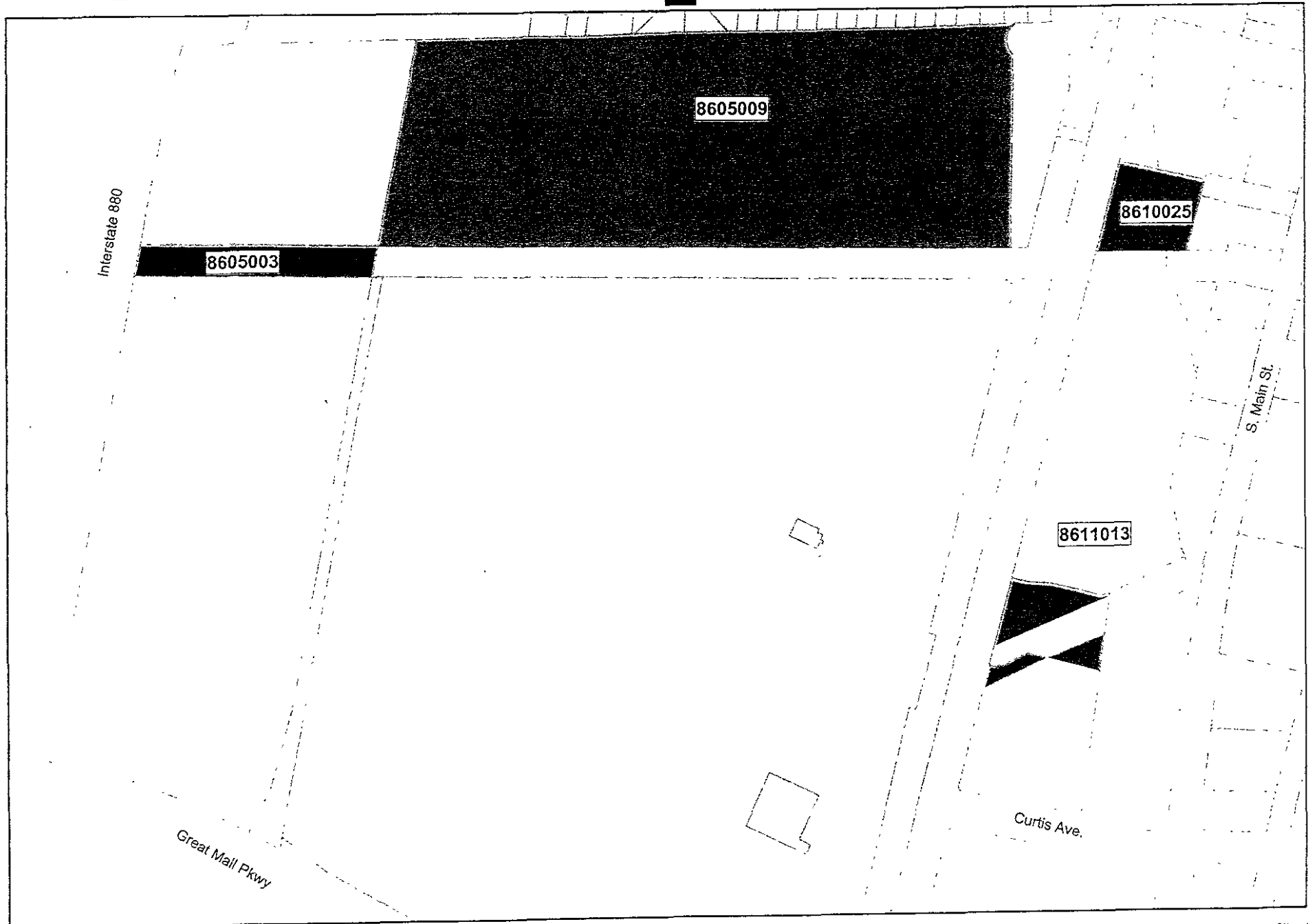
City of Milpitas
General Plan and Midtown Specific
Plan Amendment
Exhibit A
January 2005

Map Legend:

-  Multi-Family, Very High Density (31-40 units/gross acre, up to 60 units/gross acre in TOD).
-  Multi-Family, High Density (12-20 units/gross acre; up to 40 units/gross acres with special findings and PUD Approval)
-  Parks and Open Space
-  General Commercial



0 100 200 300 400 500 ft



RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE SALE OF REAL PROPERTY TO KB HOME SOUTH BAY, INC., APPROVING THE REUSE REPORT REQUIRED BY HEALTH AND SAFETY CODE SECTION 33433, AND ADOPTING FINDINGS IN CONNECTION WITH SUCH SALE

WHEREAS, by Resolution No. 192 adopted in 1976, the Redevelopment Agency of the City of Milpitas (the "**Agency**") established the Milpitas Redevelopment Project Area No. 1 ("**Project Area**") and adopted a redevelopment plan for the Project Area (as thereafter amended, the "**Redevelopment Plan**");

WHEREAS, pursuant to a Purchase and Sale Agreement authorized by Resolution No. ____, the Agency shall purchase from the County of Santa Clara certain real property (hereafter, the "**Property**") located in the Project Area and more particularly described in the Disposition and Development Agreement described below;

WHEREAS, pursuant to an Exclusive Negotiating Rights Agreement authorized by Resolution No. ____, Agency staff have negotiated the terms and conditions under which KB Home South Bay, Inc. would purchase and develop the Property, and such conditions are set forth in a Disposition and Development Agreement (the "**DDA**") which has been provided to the Agency and the City Council for review;

WHEREAS, by Resolution ____, the City Council has certified an environmental impact report for the project proposed to be developed on the Property;

WHEREAS, California Health and Safety Code Sections 33430 and 33431 provide that a redevelopment agency may sell real property without public bidding provided the agency holds a public hearing following publication of notice;

WHEREAS, California Health and Safety Code Section 33433 provides that prior to a redevelopment agency's sale of property acquired with tax increment funds (i) the agency must prepare and make available to the public a report (the "**Reuse Report**") describing the terms of the sale and development of the property, (ii) the legislative body must hold a public hearing following notice, and (iii) the legislative body must approve the sale by a resolution adopting specified findings;

WHEREAS, the Agency has caused a Reuse Report to be prepared, and the Agency and the City Council have caused notice to be published and have conducted public hearings in accordance with all legal requirements; and

WHEREAS, the Agency has approved the Reuse Report.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milpitas hereby:

1. Finds that the sale and development of the Property in accordance with the DDA will assist in the elimination of blight in the Project Area, will facilitate the development of housing for low- and moderate-income households, will further the goals of the Redevelopment Plan, and will be consistent with the implementation plan adopted in connection therewith.
2. Finds that the consideration to be paid for the Property is (i) not less than the fair market value of the Property at its highest and best use in accordance with the Redevelopment Plan, and (ii) is not less than the fair reuse value of the Property at the use and with the covenants and conditions imposed by the DDA.
3. Approves the Reuse Report.
4. Approves the sale of the Property in accordance with the DDA substantially in the form on file with the City Clerk.
5. Authorizes the Mayor and/or the City Manager to execute and deliver such other instruments and to take such other action as necessary to carry out the intent of this Resolution.

PASSED AND ADOPTED this 18TH day of January 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Gail Blalock, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

RESOLUTION NO. ____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS
APPROVING THE REUSE REPORT REQUIRED BY HEALTH AND SAFETY CODE
SECTION 33433, AUTHORIZING THE EXECUTION OF A DISPOSITION AND
DEVELOPMENT AGREEMENT AND THE SALE OF REAL PROPERTY TO KB HOME
SOUTHBAY, INC., AND ADOPTING FINDINGS IN CONNECTION WITH SUCH SALE**

WHEREAS, by Resolution No. 192 adopted in 1976, the Agency established the Milpitas Redevelopment Project Area No. 1 ("**Project Area**") and adopted a redevelopment plan for the Project Area (as thereafter amended, the "Redevelopment Plan");

WHEREAS, pursuant to a Purchase and Sale Agreement authorized by Resolution No. ____, the Agency shall purchase from the County of Santa Clara certain real property (hereafter, the "**Property**") located in the Project Area and more particularly described in the Disposition and Development Agreement described below;

WHEREAS, pursuant to an Exclusive Negotiating Rights Agreement authorized by Resolution No. ____, Agency staff have negotiated the terms and conditions under which KB Home Southbay, Inc. would purchase and develop the Property, and such conditions are set forth in a Disposition and Development Agreement (the "DDA") which has been provided to the Agency and the City Council for review;

WHEREAS, by Resolution ____, the Milpitas City Council ("**City Council**") has certified an environmental impact report for the project proposed to be developed on the Property;

WHEREAS, California Health and Safety Code Sections 33430 and 33431 provide that a redevelopment agency may sell real property without public bidding provided the agency holds a public hearing following publication of notice;

WHEREAS, California Health and Safety Code Section 33433 provides that prior to a redevelopment agency's sale of property acquired with tax increment funds (i) the agency must prepare and make available to the public a report (the "**Reuse Report**") describing the terms of the sale and development of the property, (ii) the legislative body must hold a public hearing following notice, and (iii) the legislative body must approve the sale by a resolution adopting specified findings;

WHEREAS, the Agency has caused a Reuse Report to be prepared, and the Agency and the City Council have caused notice to be published and have conducted public hearings in accordance with all legal requirements; and

WHEREAS, the City Council has approved the Reuse Report, has approved the sale of the Property pursuant to the DDA, and has adopted the findings required by Section 33433 of the Health and Safety Code.

NOW, THEREFORE, BE IT RESOLVED that the Redevelopment Agency of the City of Milpitas hereby:

1. Finds that the sale and development of the Property in accordance with the DDA will assist in the elimination of blight in the Project Area, will facilitate the development of housing for low- and moderate-income households, will further the goals of the Redevelopment Plan, and will be consistent with the implementation plan adopted in connection therewith.
2. Finds that the consideration to be paid for the Property is (i) not less than the fair market value of the Property at its highest and best use in accordance with the Redevelopment Plan, and (ii) is not less than the fair reuse value of the Property at the use and with the covenants and conditions imposed by the DDA.
3. Approves the Reuse Report.
4. Approves the DDA and authorizes the Executive Director or his designee to execute and deliver the DDA substantially in the form on file with the City Clerk.
5. Authorizes the Chairperson and/or the Executive Director to execute and deliver such other instruments and to take such other action as necessary to carry out the intent of this Resolution.

PASSED AND ADOPTED this 18TH day of January 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, Agency Secretary

Jose S. Esteves, Chairperson

APPROVED AS TO FORM:

Steven T. Mattas, Agency Counsel

REGULAR

NUMBER: 38.765

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS ENACTED AS
AN AMENDMENT TO CHAPTER 10, TITLE XI OF THE
MILPITAS MUNICIPAL CODE.

HISTORY: This Ordinance was introduced (first reading) by the City Council
at its meeting of January 18, 2005 upon motion by Councilmember
_____ and was adopted (Second reading) by the
City Council at its meeting of _____, upon motion
by Councilmember _____. Said Ordinance was duly
passed and ordered published in accordance with law by the
following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals and Findings.

- A. Pursuant to Government Code section 65853 and 65854, the Planning Commission of the City of Milpitas held a properly noticed public hearing on November 17, 2004 to consider the amendments to Title XI, Chapter 10 of the Milpitas Municipal Code related to the Elmwood Residential and Commercial Development Project. In accordance with Government Code section 65855, the Planning Commission has rendered a decision in the form of a written recommendation, which was presented to the City Council prior to consideration of this Ordinance.
- B. Upon receipt of the Planning Commission's written recommendation, the City Council held a properly noticed public hearing on January 18, 2005.
- C. The City Council finds that this Ordinance does not render Title XI, Chapter 10 inconsistent with the City of Milpitas General Plan or the Midtown Specific Plan.

SECTION 2. The *Zoning Map* of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted as Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby *amended by adding a new Sectional District Map No. 556*, which includes the zone change and partial zone change of 4 parcels, a copy of which is attached as Exhibit A incorporated herein by reference and summarized below.

APN	Existing Zoning	Proposed Zoning
86-10-025 (entire parcel)	MXD	POS
86-05-009	C2	R3
86-05-009	POS	R3
86-11-013	R4	POS
86-11-013	POS	R4
86-05-003	POS	C2





SECTION 3. Publication and Effective Date. Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

SECTION 4. Severability. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.



City of Milpitas
New Zoning Designations
Sectional District Map No. 556
Exhibit A
January 2005

Map Legend:

-  Multi-Family, Very High Density (31-40 units/gross acre, up to 60 units/gross acre in TOD).
-  Multi-Family, High Density (12-20 units/gross acre; up to 40 units/gross acres with special findings and PUD Approval)
-  Parks and Open Space
-  General Commercial

